

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 07-164
Table of Allotments,	)	RM-11386
FM Broadcast Stations.	)	
(Peach Springs, Arizona)	)	
	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: January 30, 2008**

**Released: February 1, 2008**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division issued a *Notice of Proposed Rule Making* in response to a Petition for Rule Making filed by Smoke and Mirrors, LLC (“Petitioner”).<sup>1</sup> The *Notice* proposes to amend the FM Table of Allotments, Section 73.202(b) of the Commission’s rules, by substituting Channel 268C3 for vacant and unapplied for Channel 285C3 at Peach Springs, Arizona. The purpose of the proposed channel substitution is to accommodate petitioner’s pending application to amend the construction permit for Channel 285A at Cal-Nev-Ari, Nevada.<sup>2</sup>

2. Petitioner filed comments supporting the allotment changes proposed in the *Notice*. A counterproposal filed by Greenlight Media, LLC (“Greenlight”), proposing the allotment of Channel 268C1 at Cameron, Arizona, as a second local service has been withdrawn by the proponent.<sup>3</sup> Consequently, there are no competing proposals to consider in evaluating Petitioner’s proposal.

3. We believe that the proposed channel substitution would serve the public interest, because it will accommodate Petitioner’s construction of facilities at Cal-Nev-Ari, Nevada, to provide service on Channel 285A, without any deleterious effect upon the service that can be made available using the Class C3 allotment at Peach Springs. Channel 268C3 can be allotted at Peach Springs with a site restriction of 15.3 km (9.5 miles) west of city reference coordinates. The reference coordinates for Channel 268C3 at Peach Springs are: 35-33-46 NL and 113-27-12 WL.

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<sup>1</sup> *Peach Springs, Arizona*, Notice of Proposed Rule Making, 22 FCC Rcd 15,118 (MB 2007) (“*Notice*”).

<sup>2</sup> See File No. BMPH-20070124AJQ.

<sup>3</sup> Greenlight filed its “Withdrawal” on January 7, 2008. Pursuant to Section 1.420(j) of the Commission’s Rules, Greenlight has supplied a declaration that it has not been paid nor promised any money or other consideration in exchange for the proposed withdrawal of its counterproposal in this proceeding. We will, therefore, grant the proposed withdrawal of Greenlight’s counterproposal.

4. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>4</sup>

5. Accordingly, IT IS ORDERED, That effective March 17, 2008, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED as follows:

<u>Community</u>	<u>Channel Number</u>
Peach Springs, Arizona	268C3

6. IT IS FURTHER ORDERED, That effective March 10, 2008, the Media Bureau's Consolidated Data Base will reflect Channel 268C3 at Peach Springs, Arizona, as a vacant allotment, in lieu of Channel 285C3.

7. IT IS FURTHER ORDERED, that the proposal of Greenlight Media, LLC, to withdraw its counterproposal in this proceeding is GRANTED.

8. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this Order to the following:

Robert L. Olender, Esq.  
Koerner & Olender, P.C.  
11913 Grey Hollow Court  
North Bethesda, Maryland 20852  
(Counsel for Smoke and Mirrors, LLC)

Maura D. Sparks, Manager  
Greenlight Media, LLC  
249 Franklin Street  
Napa, California 94559

9. The window period for filing applications for Channel 268C3 at Peach Springs, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for this allotment will be addressed by the Commission in a subsequent *Order*.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

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<sup>4</sup> See 5 U.S.C. § 801 (a)(1)(A).

11. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072. Questions related to the application filing process for Channel 268C3 at Peach Springs, Arizona, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau